

IN THE UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

United States Courts
Southern District of Texas
FILED

FEB 09 2009

Michael N. Milby, Clerk

Billy R. Flanigan
Plaintiff,

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Civil Action No.

4-09 - 366

Arriba Limited,
Defendant.

DEFENDANT'S NOTICE OF REMOVAL

Defendant files this notice of removal under 28 U.S.C. §1446(a).

A. Introduction

1. Plaintiff is Billy R. Flanigan; defendant is Arriba Limited.
2. On November 24, 2008, plaintiff sued defendant for a declaratory judgment in the 269th Judicial District Court of Harris County, Texas, Cause Number 2008-69995.
3. Defendant Arriba Limited is a nonresident Bahamas corporation, which was served on January 22, 2009, by service on its Bahamas court appointed receiver, James Gomez. Defendant has filed this Notice Of Removal within the thirty (30) day time period required by 28 U.S.C. §1446(b).

B. Basis for Removal

4. Diversity. Removal is proper because there is complete diversity between the parties. 28 U.S.C. §1332(a). Plaintiff Billy R. Flanigan is an individual resident of

Texas. The only defendant, Arriba Limited, is a Bahamas corporation, and does not maintain a regular place of business in Texas.

5. Amount in controversy. In actions seeking declaratory relief the amount in controversy is measured by the value of the object of the litigation, or the value of the right to be protected. Leininger v. Leininger, 705 F.2d 727, 729 (5th Cir. 1983). Here the object of the litigation is a judgment in favor of defendant Arriba Limited for more than \$92 million (Exhibit A to plaintiff's petition), and the validity of a 'Bill Of Sale And Assignment of Assets' which purports to transfer all of defendant Arriba Limited's right, title and interest in and to that judgement to plaintiff Billy R. Flanigan (Exhibit B to plaintiff's petition.) Thus the amount in controversy exceeds \$75,000.00. In Leininger the plaintiff sought to nullify an Ohio state judgment in the amount of \$105,000.00, and enjoin its enforcement, which amount the Court recognized as the value of the right to be protected, and well in excess of the jurisdictional amount. Id. Similarly, Arriba Limited's judgment, which plaintiff seeks to obtain through his 'Bill of Sale And Assignment of Assets' is in an amount in excess of the jurisdictional amount, exceeding \$75,000.00, excluding interest, costs, and attorney fees.

6. All pleadings, process, orders, and other filings in the state court action are attached to this notice as required by 28 U.S.C. §1446(a).

7. Venue is proper in the district under 28 U.S.C. §1441(a) because this district and division embrace the place where the removed action has been pending.

8. Defendant will file promptly a copy of this notice of removal with the clerk of the state court where the action has been pending.

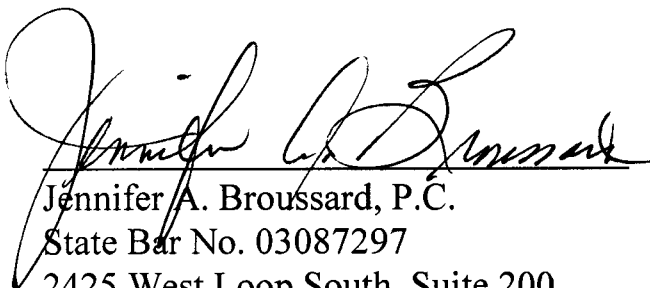
C. Jury Demand

9. Plaintiff did not demand a jury in the state court action.

D. Conclusion

10. The parties are diverse, the plaintiff's petition and exhibits show the amount in controversy exceeds \$75,000.00, and this Notice was timely and properly filed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jennifer A. Broussard", is written over a horizontal line.

Jennifer A. Broussard, P.C.

State Bar No. 03087297

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(713) 623-4017 Facsimile

Attorney for Defendant Arriba Limited

CERTIFICATE OF SERVICE

I certify that a true copy of the above was served on John F. Easton, attorney for Billy R. Flanigan, 909 Fannin, Suite 2000, Houston, Texas 77010, by hand delivery on February 9, 2009.



Jennifer A. Broussard
Attorney for Arriba Limited